



**MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, November 1, 2005, 8:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Henson.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Quirk, Halliday, Ward, Dowling, Henson
MAYOR Cooper
Absent: COUNCIL MEMBERS None

PRESENTATION: Rohm and Haas

Mayor Cooper presented the November 2005 Business Recognition Award to Rohm and Haas Company. Rohm and Haas, a producer of specialty materials, invented water-based painting technology in the 1950's, and now they are #1 in the world with this technology. Rohm and Haas established its 33-acre Hayward plant in 1972 with 30 employees, since then, they have more than doubled to 75.

Rohm and Haas Company was recognized for developing and implementing new technology, contributing to the vitality and economic well-being of our community; and providing job opportunities to local residents. Bob Putman, Plant Manager of the Hayward facility, accepted the award and thanked Council for this honor. He noted that members of his staff are involved in community efforts.

PUBLIC COMMENTS

Stephania Widger spoke on a special project related to sister cities in Iraq and urged the Council to consider an additional city in the Middle East.

Cheryl Gerard, a parent of a choir member, spoke on the Mt. Eden Fall Musical and invited all to attend.

Eduardo Carrasco suggested naming the downtown portion of B Street as B Street Plaza.

CONSENT

Item #3 was removed for further discussion.

1. Approval of the Minutes of the City Council Meeting of October 25, 2005.

DRAFT

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to approve the minutes of the City Council Meeting of October 25, 2005.

2. Authorization for a Professional Services Agreement with WRA Environmental Consultants for the Design of the Airport Sulphur Creek Preservation Project

Staff report submitted by Design and Construction Services Manager Fakhrai, dated November 1, 2005, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to adopt the following:

Resolution 05-131, "Resolution Authorizing the City Manager to Negotiate and Execute an Agreement between the City of Hayward and WRA Environmental Consultants for the Design of the Airport Sulphur Creek Preservation Project, Project No. 6840"

3. Authorization for the City Manager to Execute a Professional Services Agreement for an Environmental Impact Report on the Route 238 Corridor Improvement Project

Staff report submitted by Design and Construction Services Manager Fakhrai, dated November 1, 2005, was filed.

At the request of Council Member Ward, City Manager Armas made a brief report stating that this action authorizes the preparation of an environmental impact report for the proposed Route 238 Corridor Improvement project, which is a result of substantial evaluations in the past years to address traffic issues in Hayward. The project includes a reconfiguration of Mission, Foothill and creates a grade separation where Mission, Jackson and Foothill come together, and alters traffic flow by creating one way on segments of A Street and on Mission. To insure that this is the advisable course of action, this environmental impact report is needed to provide critical information. There will be opportunities for the public to provide additional input on this project in order to identify all issues and examine its full scope.

Rudy Grasseschi commented on noticing and asked what the term "scoping" meant. He was informed that it allows for comments on the assessments that are prepared and the issues to be studied.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to adopt the following:

Resolution 05-132, "Resolution Authorizing the City Manager to Execute a Professional Services Agreement between the City of Hayward and Mark Thomas & Company to Prepare an Environmental Impact Report for the Route 238 Corridor Improvement Project"



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PUBLIC HEARINGS

4. Public TEFRA Hearing, Inducement and Authorization to Issue Bonds for the Purchase and Rehabilitation of the Josephine Lum Lodge Senior Apartments

Staff report submitted by Director of Community and Economic Development Ehrenthal, dated November 1, 2005, was filed.

Director of Community and Economic Development Ehrenthal made the report indicating the procedural actions that are required for the formal issuance of bonds. She reiterated previous actions taken last September with regard to mortgage assistance and noted that due to timing, the law requires the City to authorize the issuance of the bonds but is not liable for the bonds. She described the extensive renovations that will take place including new site drainage and fencing of the perimeter. She enumerated the funding sources and tax credits and stated that the project will remain in control of a nonprofit entity committed to long-term affordability. Director of Community and Economic Development Ehrenthal stated that Citibank has agreed to privately purchase the bonds that will be issued and will be unrated. The funds will be used to fund both the extensive renovation as well as for securing permanent financing. She stated that this project does not change the current tenancy or the rent levels. Lastly, she introduced Linda Mandolini from Eden Housing and Peg Stone representing the financial advisor.

In response to Council Member Ward's concern for any temporary relocation of current tenants during the rehabilitation, Director of Community and Economic Development Ehrenthal stated that it would be best answered by the representative from Eden Housing. She noted that prior projects were the Timbers, the Lord Tennyson and the Tennyson Gardens apartments.

Mayor Cooper opened the public hearing at 8:29 p.m.

Linda Mandolini of Eden Housing stated that there are several options provided to the tenants. A professional relocation expert has been working with her staff for the past 18 months to assist in moving the tenants out by groups. Some may be relocated to Extended America in Union City, while others have opted to move in with families and be compensated. In response to Council Member Ward's question related to the waiting list to move, Ms. Mandolini reported that there is an established waiting list that extends to two years and is opened once a year for a few weeks. The list is purged after two notifications are made to the interested party. She also reported that there will be some landscaping improvements as well as the remodeling of the community room.

Council Member Henson stated that since the age of the buildings demand substantial renovations, he asked if there will be a need for special designs to address ADA needs. He also asked if there is an opportunity for use of the multifamily green building standards in this project.

In response, Linda Mandolini of Eden Housing stated that the property is already accessible for the disabled renter and there will be additional opportunity to renovate and improve adaptability. She cited some common improvements that will include use of solar panels.

Mayor Cooper closed the public hearing at 8:32 p.m.

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution 05-133, "Resolution of the City of Hayward Authorizing the Issuance, Sale and Delivery of City of Hayward Multifamily Housing Revenue Bonds (Josephine Lum Lodge) 2005 Series A, Authorizing the Execution and Delivery of a Master Pledge and Assignment, an Agency Agreement and a Regulatory Agreement, and Authorizing the Execution and Delivery of and Approving Other Related Documents and Approving other Related Actions in Connection Therewith"

5. Zone Change No. PL-2004-0627 & Vesting Tentative Tract Map 7583/PL 2004-0628 – University Village (Applicant)/Unitrust (Owner) - Request to Change the Zoning from Single-Family Residential District to Planned Development District and Subdivide 1.3 Acres to Build 14 Homes – The Project is Located at 26528 Hayward Boulevard at the Corner of Tribune Avenue

Staff report submitted by Associate Planner E. Pearson, dated November 1, 2005, was filed.

Associate Planner Pearson made the report as recommended by staff to adopt the mitigated negative declaration, approve the zone change, the preliminary development plan and the vesting tentative map with conditions. He noted a minor change to Condition #10 as requested by the Fire Department related to the driveway width that will be 24 feet rather than 22 feet, which has already been designed into the project by the developer. The condition is a request to address the location of the project, University Village, on the hillside. He responded to Council questions.

Council Member Dowling commented on the various correspondence received from neighbors as well as former members of the Highlands Neighborhood Task Force. He asked staff to comment on the General Plan designation in contrast to the zoning designation. Associate Planner Pearson responded that in 1998 there was some disagreement among the members of the Highlands Neighborhood Task Force, which resulted in a compromise and thus, the General Plan was adopted with a general plan density allowing medium density with seventeen units per acre. There was also a single family residential zoning with a 6,000 square foot minimum lot size. This was done to encourage developers to use the planned development process and to take advantage of the higher density and to insure higher quality projects. Council Member Dowling asked what the neighborhood reaction was to the development across the street on Tribune at the Planning Commission hearing and it was noted that the reaction was favorable. Council Member Dowling stated that he met with the developer. He asked staff to comment on the work with neighbors related to the any improvements of Tribune and its condition. He pointed out that most residents of the Old Highlands neighborhood need to use Tribune



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to exit to Hayward Boulevard and additional density would mean that much more use of the already in poor condition roadway.

Public Works Director Bauman offered to address his question. He reported on the study that has been completed to work with developers and home owners to improve the streets that are part of Old Highlands area to identify what desires there are in improving the area and whether there is interest in the property owners participating in the process. There currently is no conclusion or decision, although the information has been gathered. This project will improve the lower portion of Tribune and the combined projects will improve the intersection at Tribune and Hayward Boulevard as well as install curbing and gutter. These two combined projects will insure improvements to the lower part. Any improvements by the property owners will be the frontage of each parcel.

Council Member Dowling asked about the arborist report. He visited the site and noted the large eucalyptus trees. He asked staff to respond to the comment that the arborist report did not conform to the City's guidelines. Associate Planner Pearson noted that the landscape architect agreed with the primary conclusion of the reports related to the removal of the large trees. He further explained that the issue with the report was that the valuation of the trees were not calculated and in lieu the City has required that there be 36 inch box trees for all of the replacement trees rather than try to quantify their value.

Council Member Henson felt that the reason for the zone change was to allow for flexibility and perhaps additional units on the parcel. He asked what sort of traffic will be generated from the two new developments, including Stonebrae. Staff noted that traffic generation would be low and therefore no traffic study is required. It was noted that the signal at Civic and Hayward was the result of a separate analysis on the Stonebrae project.

Council Member Henson also asked staff to outline the additional eleven parking spaces in the proposed project and felt that the designated spaces are sufficient and more than enough. He reiterated his concerns against street parking to resolve parking concerns in the development. He also agreed with the Planning Commission remarks on the "sameness" of the houses that front Hayward Boulevard. Staff noted that the developer will work with staff to make revisions to the front elevations. In response to his question regarding the elimination of the duets, staff reported that the duets did not have garages that met the City's minimum standards.

Council Member Halliday asked for clarification of previous design and zoning issues and it was noted that the designations on the two most recent projects were the same. She asked about previous submittals of single-family dwellings. Associate Planner Pearson depicted the boundaries of the project and stated that there were site constraints and design issues that were not accepted by staff.

Council Member Halliday asked about the insertion of the interface ordinance. City Manager Armas reported that there is no interface ordinance. He noted the extensive work performed by the task force, which was also somewhat contentious. There was a concern by members that there were too many multifamily units being built on Hayward Boulevard. It was the desire of many of the members to

preserve more of the traditional single family character of the area. The task force looked at this as a way to develop some sort of transition recognizing the extensive use of Hayward Boulevard. Consequently, the task force recommended and the Council accepted the General Plan designation of one type and the zoning of another designation. The neighborhood report further stated that rather than look at different strategies, it would be beneficial to review an actual application and site development recognizing topography and other development conditions. Staff is recommending a planned development to reconcile the two competing objectives.

Staff clarified that Condition #5 will require curb, gutter, and sidewalks, paving and resurfacing improvements on the portion of Tribune Avenue.

Council Member Quirk reported that he has spoken with City Attorney O'Toole because he resides in that neighborhood. His residence is situated about one thousand feet beyond this project and thus is able to participate in the deliberations. He also noted that he has talked with a number of individuals including the owner and reiterated his involvement with the developer and the various proposals prior to becoming a Council Member.

Council Member Ward commented that the property is relatively a flat site that is easy to develop and the applicant's density proposal is lower than that allowed by the General Plan designation, but higher than the site that will be developed across the street. One argument could be that there needs to be some consistency on adjacent parcels.

Mayor Cooper declared that evidently each of the Council Members met with the developer, Bijan Mashaw, except Council Member Jimenez who spoke with the developer via telephone.

Mayor Cooper opened the public hearing at 9:05 p.m.

Lisa Brunner, a resident of Highland Boulevard and a former task force member, commented on the medium density as a compromise, but preferred single-family residences. This project is well-planned. She also commented that she preferred single family residences that encourage and establish neighborhoods and whose residents are more involved in local issues.

George Dimic, a 26 year resident on Home Avenue, felt that the project seemed consistent and provides a gradual transition into the development. He spoke in favor of the project and appreciated the potential removal of the eucalyptus trees.

Michael Belre, a 15 year resident on Home Avenue, stated that he has participated in a number of discussions related to the potential development of this parcel. He felt that this type of development will generate heavy traffic and urged denial of the project.

Valerie Caveglia, a former task force member, commented on the Old Highlands zoning for single family homes as compared to the proposed units on Tribune and urged a development limited to five or six homes.

Brian Schott stated that he also was a former member and served as chair of the Hayward Highlands Task Force and its deliberations. He referred copies of minutes from the meetings and commented on zoning designations and strategies and reported that he was out of town when the Planning



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Commission reviewed the project. He reported that the plan was adopted with the planned development concept. He recalled that most of the members did not desire to see a repeat of the Hillcrest Apartments which are 24 units per acre. He felt that the proposal meets the task force guidelines. He noted that the plan for that neighborhood was the result of work of 23 residents that took about fourteen months to complete. He wholeheartedly spoke in support of the project.

Sharon Van Brunt has lived on Morse Court for about five years. She noted that this project will include affordable housing in that neighborhood and urged approval of the project.

Ron Peck, a 20 year resident in that neighborhood, spoke in support of the proposal. He agreed that this blend of homes provides affordable homes. He felt that this is a reasonable compromise.

Howard Pratt also agreed with the previous speaker related to the affordability.

Bruce Barrett, using his position paper, compared the two developments with the neighborhood that is emphasized. He stated that this is a neighborhood of single family parcels. He commented that the developer asked the Old Highlands Neighborhood Association to review his project in 2002. Mr. Barrett referred to the position paper during his discussion and felt that the project should fit more with the neighborhood character. He responded to Council questions related to the interface ordinance and whether the Old Highlands Neighborhood Association Board of Directors had considered the most recent proposal.

Council Member Quirk asked if there was a representative of the Board of the Old Highlands Neighborhood present. Mr. Rob Simpson, who resides on Grandview, stated that he is a current Board Member and that he was on the Board when it was approved.

Council Member Halliday asked Mr. Barrett to speak on the interface ordinance. Mr. Barrett commented on the compromise of the task force that ranged between high development and single family residential designation. Mr. Barrett recalled that there were concerns of task force members regarding the definition of planned development.

Robert Ridgeway, a resident of Parkside Drive, stated that he has reviewed three proposals by the developer and was satisfied with the final proposal. He thought the Mediterranean style of the proposed home is appealing and an excellent segue to the neighborhood. He did express his concern for Tribune improvements.

Joy Rowan, a former Task Force member, submitted pages out of the Hayward Highlands Neighborhood Plan and a two page memo entitled "Results of the Second Neighborhood Meeting Hayward Highlands Neighborhood Plan" dated October 22, 1997." She reported that the Old Highlands Neighborhood Association members have consistently asked for single-family homes.

Mike Frandy has one home on a similar lot size on Parkside Drive. He thought the development did not include sufficient parking for guests. He also stated that a minimal number of single family houses

would be appropriate. He did not agree that the parcel is flat and easily developable and urged single family units.

Ignacio Lucero has resided on Parkside for two years and spoke in support of the plan. He felt that the developer has met the concerns of the neighborhoods.

Sylvester Okoro, a student at Cal State, spoke in support of the project as Professor Mashaw's development will provide affordable housing.

Dana Morgan spoke in support of the development and felt that Bijan Mashaw has addressed the needs of those desiring to reside in the Hayward hills in an affordable home.

Faz Binesh, a real estate agent, stated that he purchased his first home in Hayward. Hayward Hills is a hidden jewel and the proposed University Village homes will be a good transition from these homes to Bailey Ranch and the new Stonebrae development. In response to Council Member Dowling's question, Mr. Binesh reported on local home values and did not find it difficult to see these units sell at the proposed prices. He commented on the average price of homes in Fremont as compared to Hayward.

Bijan Mashaw described his experience and enumerated the steps he took to reach this final rendition of the project and informed the Council that he purchased this house knowing that it was zoned medium density. His objective was to develop good value housing for the community and efficient development of the land. He reported that his first rendition of a proposal included a preschool but it was not accepted by the neighborhood. He distributed two hundred surveys throughout the community. He also asked for direction from staff. He then studied over twenty types of development including condominiums. The proposal includes two large homes to blend with the community. He projected that the A unit houses, the lowest units, would start at \$650,000. These would be the least expensive houses in this neighborhood. The A models will have different elevations and colors. The B models will range from \$800,000-\$900,000.

Rita Akpan submitted a card but did not speak.

Antonio Silvera addressed the questions from the Council related to the architecture of the project. The homes are Mediterranean style with Spanish Mission style roofs. The floor plans will be the same, as well as the use of stucco, but the colors will be different and the pitches of the roof and the facades will be revised. It was recommended that consideration be taken to offset the proposed houses along Hayward Boulevard and the side yard development.

Herman Lewis commented that he supports the development of the land, but did not feel that the homes are affordable. The market will drive that. He felt that the Tribune egress will increase in congestion. The Hayward Boulevard is already dense and heavily traveled and the Tribune intersection may be impacted.

Michael Van Brunt, who resides on Morse Court, spoke in support of the project. He felt it to be a good transition.

Rob Simpson has two acres adjacent to the Mashaw property facing Hayward Boulevard. As a



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member of the Old Highlands Board of Directors, he reported that the main concern was access to the units from Hayward Boulevard. As a real estate broker, he confirmed that the proposed home prices are consistent with today's value. He referred to the zoning designation. He was in favor of the project as it will enhance the area. He offered his property as an additional access.

Robert Sakai reiterated, as the Vice-President of the Highlands Task Force, not the Old Highlands Task Force, that the majority of the members desired the single family zoning. He explained the final compromise that was approved by the task force. He felt that the developer has successfully followed the recommendation of the Highlands Neighborhood Plan.

Mayor Cooper closed the public hearing at 10:31 p.m.

Council Member Jimenez accepted the recommendation of the Planning Commission and the staff and spoke in support of the project.

Council Member Henson moved to approve the staff recommendation with a motion directing staff to work with the applicant to modify the appearance of homes in the frontage and amend Condition of Approval #10 related to the interface ordinance to reflect the Fire Chief's recommendation to extend the private driveway from 22 feet to 24 feet. It is a good compromise and consistent with the final reiteration of the Task Force as well as the General Plan. He commended staff for working through this.

Council Member Ward expressed his doubts that students will be able to purchase these homes. He lives in the neighborhood and drives by the site daily. He expressed his concern on development potential on large sites as this one. He felt this was the final development on Hayward Boulevard. It was his opinion that Tribune traffic issues could be addressed. Council Member Ward spoke on the design of the development. He felt that the trees will be tall along Hayward Boulevard as staff is requiring 36-inch boxed trees. He appreciated the group open space and the landscaping that will help soften the visual impact of the site as one drives along Tribune Avenue. He did not see this proposal as the perfect solution, but one that will fit the neighborhood. He asked the maker of the motion to include the redesign of the units on Hayward Boulevard as part of the motion.

Council Member Henson accepted the redesign of the units as part of his original motion.

Council Member Dowling reported that he met with Bijan Mashaw over the weekend, who was clearly frustrated as he has spent five years attempting to develop his property in accordance to both staff and neighborhood concerns. He noted the number of supporters for the project throughout the neighborhood, including Morse Court. Council Member Dowling was of the opinion that Tribune Avenue is separate from the rest of Hayward Boulevard. He commented on the single family homes that face Tribune that were approved by the Planning Commission on the same night as this project was reviewed. He felt that this project should be similar. He calculated that the developer could net about \$6.5 million dollars. Building six homes at this site could net the same amount.

Council Member Dowling then moved a Substitute Motion to deny the project and direct the developer to return with a proposal that limits the development to six single family homes. Council Member Halliday seconded his Substitute Motion.

Council Member Quirk stated that he would be supporting the original or main motion. He spoke in support of Mr. Mashaw, who he felt did what staff asked him to do and adhered to City Council guidance. He felt that the developer could make more money building five or six homes than building the fourteen that are proposed to be built and somewhat affordable.

Although she seconded the Substitute Motion, Council Member Halliday was not sure if she would necessarily restrict the number of homes to six. She met with Mr. Mashaw, looked at the elevations and photos and felt that this project did not fit the site. She also noted that she spoke with Bruce Barrett and former Planning Commissioner Caveglia. Her major concern was five cookie cutter type homes could visually impact the neighborhood. She could not recognize the setback standards in the project between the A and B houses. She felt that planned development with clustered homes generally provides a common open space area. She suggested removing the two single family houses at the top to increase the buffer. She also was doubtful that these homes would be affordable to students. She was reluctant to approve the project. She indicated that she would not be supporting the original motion, but commended and appreciated all the residents who participated in this discussion.

Mayor Cooper stated that she also spoke with Mr. Bijan Mashaw who promised to work with staff to make the appearance of the homes better. She would be supporting the main motion. She stated that she was not pleased with what she heard, regarding neighborhood priorities and disappointed that she did not hear a whole lot of concern about the rest of the community with respect to the desire of a developer to develop and the impacts of that development on traffic whenever such development occurs.

Mayor Cooper called for the vote on the Substitute Motion.

The Substitute Motion was moved by Council Member Dowling, seconded by Council Member Halliday, and failed by the following roll call vote to deny the project and direct the developer to return with a proposal that limits the development to six single family homes.

AYES:	Council Members Halliday, Dowling
NOES:	Council Members Jimenez, Quirk, Ward, Henson
	MAYOR Cooper
ABSENT:	None
ABSTAINED:	None

Mayor Cooper then asked for the vote on the main motion as proposed by Council Member Henson and seconded by Council Member Ward.

Prior to voting on the main motion, City Manager Armas stated that there are five proposed driveway cuts on Tribune Avenue, noting that the home designated on the map as B1 could be adjusted to have a common driveway similar to the A homes. This suggestion would mean one less



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driveway cut on Tribune Avenue. This is recommended if accepted by the developer as well as by the Council. Both the maker of the main motion, Council Member Henson, and the second, Council Member Ward accepted the staff recommendation.

Council Member Dowling commented on neighborhood priorities and the comments made by citizens during this public hearing. Hayward is a middle class community and many good hard working people live in the flat lands. He remarked that he lives in a condominium and is quite involved. He did not appreciate the comment that only residents living in single family homes participate in community affairs. He noted there are commissioners who live in the dense housing in the downtown who volunteer in the community. Lastly, he was emphatic that this project will not be student housing.

It was moved by Council Member Henson, seconded by Council Member Ward, and carried by the following roll call vote to direct the applicant to work with staff to modify the homes on the frontage and amend Condition #10 related to the interface ordinance and remove one driveway cut along Tribune:

AYES: Council Members Jimenez, Quirk, Ward, Henson
MAYOR Cooper
NOES: Council Members Halliday, Dowling
ABSENT: None
ABSTAINED: None

Resolution 05-134, "Resolution Adopting the Mitigated Negative Declaration and Approving Zone Change Application No. PL-2004-0627, Preliminary Development Plan and Vesting Tentative Tract Map 7583/PL-2004-0628"

Introduction Ordinance 05-_, "An Ordinance Amending the Zone District Map of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory Located at 26528 Hayward Boulevard Pursuant to Zone Change Application No PL-2004-0627"

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:55 p. m.

APPROVED:

DRAFT

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward